

REMARKS/ARGUMENTS

These remarks are made in response to the Office Action of 01 August 2011 (Office Action). This response is filed prior to the expiration of the 3-month statutory period; no fee is believed due. However, the Examiner is authorized to charge any deficiencies or credit any overpayments to Deposit Account No. 50-3610.

Initial Comments

Please do not hesitate to contact the Applicants' undersigned counsel (direct line 305-791-5513) should you note any possible amendments and/or issues that could be resolved to expedite prosecution on this case, or if you notice any apparent differences in the intended claim scope or reference(s) interpretation, which you believe would be useful to discuss. Additionally, **Applicants would welcome any communications towards an Examiner amendment, and would participate as fully as possible in this regard** (e.g., within constraints established by Assignee).

CLAIM OBJECTIONS

Applicants have amended the claims to overcome the claim objections. No new matter has been added.

35 USC 101

Applicants have amended claims 1-5 as suggested to overcome any potential 101 issues.

35 USC 112

Applicants have amended claims to overcome any potential 102 issues. No new matter has been added.

CLAIM STATUS

In this Action, the claims stand rejected under 35 USC § 103 as follows:

Claims 1-15, and 18-20 over Stelting (US Publication No. 2004/0030740) in view of Bowman-Amuah (US Pat. No. 6,640,249) and further in view of Nguyen (US Publication No. 2003/0172145);

Claims 16, and 17 over Stelting in view of Nguyen and further in view of Cameron (US Pat. No. 6,317,490)

COMMENTS RE: ACTION AND MPEP 707.07(f)

Before providing their remarks, Applicants note that per MPEP 707.07(f) all material traversed must be answered in an Action. Applicants do not believe this has been done sufficiently in this action.

Specifically, per 7.37 (shown below)

¶ 7.37 Arguments Are Not Persuasive

Applicant's arguments filed [1] have been fully considered but they are not persuasive. [2]

Examiner Note

1. The examiner must address all arguments which have not already been responded to in the statement of the rejection.
2. In bracket 2, provide explanation as to non-persuasiveness.

Please note that the Examiner must address all arguments and provide an explanation as to non-persuasiveness. Otherwise, Applicants are left with no idea regarding the rational being asserted against their claims (in light of the distinguishing arguments that they presented in reply).

The Action states:

2. Applicant's arguments, see pgs. 12-24, filed 05/10/2011 with respect to claims 1-20 have been fully considered but are not persuasive. The 103 rejections of 05/27/2010 are maintained.
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Please note that the above fails to provide an explanation as to non-persuasiveness, and is therefore improper. Applicants re-assert their previous arguments (in addition to those below) – and respectfully request the Office provide them with a proper explanation as to non-persuasiveness, as required.

Since, no such explanation is given, the Action provided is improper, and the rejections should be withdrawn on this basis, which action is respectfully requested.

For example, Applicants gave specific arguments regarding claims 2, 3, 4, and 5, which were not responded to. Applicants have repeated these arguments herein – and are entitled to a detailed explanation as to why their arguments are not persuasive, or entitled to an allowance on these claims.

Further, Applicants provided a detailed explanation as to why the cited references were not believed to be properly combinable, which was not responded to (no rationale as to why this was not persuasive was provided). This argument has been re-asserted herein. Applicants are entitled to a detailed explanation as to why their arguments are not persuasive (which constitutes new grounds per MPEP 706.07, at least – as the current grounds are being asserted without explanation), or are entitled to an allowance on these claims, for the provided reasons.

CLAIM AMENDMENTS

CLAIM 16:

The Applicants have amended claim 16 to include “wherein the Web service interface is directly coupled to the billing engine”.

Support for such an amendment is present, for example, in paragraphs 0038, 0042, 0059, and FIGS. 5 and 7. No new matter has been added.

CLAIM REJECTIONS UNDER 35 USC § 103

CLAIM 1:

The Examiner has rejected claim 1 over Stelting in view of Bowman-Amuah. The Applicants respectfully disagree. The Applicants have already provided a clear and detailed explanation as to why Stelting does not teach or suggest various claim limitations in a previous Response dated 12 October 2010. In light of such an explanation, the Applicants are perplexed as to why the Examiner has still maintained the rejection. Particularly, Stelting fails to teach or suggest “a web service interface, which is implemented within software stored on a tangible computer readable medium, defined for a billing service, said web service interface being adapted for coupling to a billing engine, said billing engine residing on a computing device in said distributed network and being adapted to perform said plurality of billing functions, said web service interface comprises a plurality of application programming interfaces, each of said application programming interfaces being associated with one of said billing functions and being implemented such that the billing function associated therewith is performed after a web service invocation that commands performance of said billing function is received by said web service interface”.

The Examiner has asserted that Stelting teaches **“a web service interface”** at paragraph 0023, and FIG. 8, object 742). The Applicants respectfully disagree. Paragraph 0023 of Stelting teaches an automated Web services generation system 100. Paragraph 0023 has absolutely no teaching of any web service interface as recited in claim 1. Further, object 742 of FIG. 8 is a billing service that is accessible only through a public interface (object 746). The Examiner appears to have erred in relating object 742 to the **“web service interface”** recited in claim 1. The description of FIG. 8 is devoid of any teaching of any web service interface. The only interface taught is public interface (object 746, FIG. 8). *Interestingly, each of the service providers 730, 740, 750 uses a different interface (or set of invoking and communication rules) for the services 734, 742, 754 they provide. These interfaces are shown as being a proprietary interface 738 (which is specific to the shipping server 730), a first public interface 746 (which is a standard interface publicly available), and a second public interface 758 (which is another standard interface that is publicly available but that is different from the interface 746). Hence, to access and run the services 734, 742, 754, service requests or methods of invoking the services 734, 742, 754 need to be compliant with the corresponding interfaces 738, 746, 758.* (Stelting, paragraph 0043). Such teachings of Stelting clearly indicate that interface 746 is indeed not **“a web service interface”** as recited in claim 1.

In fact, Stelting is directed only towards automatic generation of web services from existing service components (Title, Stelting). Stelting simply does not teach at the level of granularity recited in claim 1. For instance, Stelting is completely silent about whether the **“web service interface comprises a plurality of application programming interfaces”** and that **“each of said application programming interfaces being associated with one of said billing functions”**. The Examiner has asserted that the **“billing functions”** is taught by object 742 in FIG. 8 of Stelting. Although the billing services 742 may comprise a plurality, Stelting is completely silent as to how such a plurality of billing services 742 cooperate with a web service interface (which the Applicants have already explained being absent from Stelting).

Also, the Applicants find no evidence of Stelting disclosing a **billing engine**. Stelting is completely silent on the billing engine.

Further, Stelting states at paragraph 0043 *“The Web services developer system 710 is configured to find services 734, 742, and/or 754 which it can run or configure to run. The developer system 710 acts to create (if necessary) an adapter for enabling the services 764, 768, 772 to run within the system 700 and to communicate properly with the services 734, 742, 754, which allows these services 764, 768, 772 to be combined and offered as a Web service 762 to clients 720.”* In other words, billing service 768 may just be a copy of billing service 742, or a reconfigured version thereof. It would be completely erroneous to state billing service 768 as teaching the **“web service interface”**, Assuming arguendo, if that were to be attempted.

The Applicants note that the Examiner’s assertions of relating various elements of Stelting as disclosing the recited claim limitations is inconsistent, and lacks a clear correspondence between the recited claim, and Stelting. For this reason, and the arguments presented above, the Applicants respectfully submit that Stelting suffers from various deficiencies, and fails to disclose the limitations as recited in claim 1. Bowman-Amuah, and Nguyen do not correct such deficiencies either. Therefore, Stelting, Bowman-Amuah, and Nguyen, either individually or taken together fail to disclose the limitations of claim 1. In light of the foregoing, the Applicants respectfully request that the rejections be withdrawn.

Claim 2

The claim specifically states that a Web service interface is extensible. The examiner cites a different architecture (an object oriented one), which is extensible and then “implies that a given architecture can be adaptable. This is an improper rejection.

Stated differently, Stelting teaches a Web service interface 762, which is not extensible, as noted on page 7 of the Action. Bowman does not disclose an extensible Web service interface.

Thus, this limitation is not taught by the combination of references, and should be withdrawn on this basis.

Claim 3

A conclusory statement (no references or specific citations provided) that Nguyen (124 pages long) teaches the creation of billing account, billing events .. is provided.

Applicants do not know what specific sections of Nguyen are meant to be teach the claimed limitations. However, the only billing function of Nguyen is one used by an internet service provider. None of these have anything to do with services provided (ASP's) by the internet service provider.

Hence, it is known how an internal billing system is related to the Web service provided to others, which is claimed. If maintaining this rejection, please elaborate providing specific references to Nguyen and providing a rationale on the record for why internal record keeping is being cited for an externally provided service, which is not taught by Nguyen.

This limitation should be withdrawn on this basis.

Claim 4

A conclusory statement (no references or specific citations provided) that Nguyen (124 pages long) teaches the limitations of claim 4.

Applicants do not know what specific sections of Nguyen are meant to be teach the claimed limitations. However, the only billing function of Nguyen is one used by an internet service provider. None of these have anything to do with services provided (ASP's) by the internet service provider.

Hence, it is known how an internal billing system is related to the Web service provided to others, which is claimed. If maintaining this rejection, please elaborate providing specific references to Nguyen and providing a rationale on the record for why internal record keeping is being cited for an externally provided service, which is not taught by Nguyen.

This limitation should be withdrawn on this basis.

Claim 5

This claim cites that object classes are established for at least three of: billing accounts, billing events, billing rate packages, billable services, billing subscriptions, and billable service instances.

Some random teachings about object oriented are cited from Bowman. Applicants did not invent the concept of object oriented programming, and have not claimed it. Bowman does not teach using objects as web service parameters, which is claimed in context (as previously mentioned). Bowman does not teach any of the six specific object classes, which are claimed.

Thus, this claimed limitation is not taught by Bowman, and the rejection should be withdrawn on this basis.

Claims 6 and 11:

The Examiner has rejected claims 6 and 11 over Stelting in view of Bowman-Amuah and in further view of Nguyen. Claims 6 and 11 include limitations similar to those recited in claim 1. The arguments presented in conjunction with claim 1 hold true for claims 6 and 11 as well. Therefore, Stelting, Bowman-Amuah, and Nguyen, individually or taken together, do not teach various limitations of claims 6 and 11. In light of the foregoing, the Applicants respectfully request that the rejections be withdrawn.

Claim 16:

The Examiner has rejected claim 16 over Stelting in view of Nguyen, and in further view of Cameron. The Examiner has asserted that Stelting teaches **“wherein said Web service invocation is digitally conveyed from a computing application executing on a computing device over a distributed network to the billing system, wherein said computing application provides at least one commercial service made available by a commercial service provider for a usage charge”**. The Applicants respectfully disagree. The Examiner has cited paragraphs 0023 and 0024 of Stelting in support of his rejection. At paragraph 0023, Stelting teaches *“The Web service clients 104 then remotely invoke the Web service from a service provider 108, 116, 160 (or, in some cases, developer system 130) using inputs as required by the Web service description with the Web service most likely be wrapped in a transport envelope (such as transport technologies defined by SOAP). Inputs and outputs of the Web service often include markup language-formatted information (such as XML-formatted information) with communication protocol headers appropriate for the communications network 106 (such as HTTP headers).”* Further, at paragraph 0025, Stelting clearly distinguishes clients 104 as users, from service providers 108, 116, and 160. In other words, the invocation of web services from the service providers is not conveyed from a computing application that provides at least one commercial service made available by a commercial service provider. That is, Stelting discloses web services for consumption by users, and not by commercial service providers. Nowhere does Stelting teach any service provider 108, 116, or 160 conveying web service invocations to a web service interface. Therefore, Stelting fails to teach **“wherein said Web service invocation is digitally conveyed from a computing application executing on a computing device over a distributed network to the billing system, wherein said computing application provides at least one commercial service made available by a commercial service provider for a usage charge”** as recited in claim 16. The Applicants respectfully request that the rejection be withdrawn.

Further, the Applicants have amended claim 16 to recite “**wherein the Web service interface is directly coupled to the billing engine**”. The Applicants believe that such an amendment renders the rejection moot. Such a limitation has been removed from claim 17 and introduced into claim 16. The Examiner has generically cited FIG. 8 of Stelting as disclosing the recited claim limitation. The Applicants respectfully disagree. FIG. 8 of Stelting does not teach or suggest the recited limitation. The Examiner has also failed to identify what the Examiner has interpreted as **the billing engine**. Even if it were to be assumed that the object 742 in FIG. 8 of Stelting is the billing engine (based on the Examiner’s assertion that object 742 are the billing function), the teachings of Stelting would be inconsistent with the recited claim limitation. The Applicants have already established that the public interface 746 (which is the only interface directly coupled to object 742) can not be interpreted as the **web service interface**. The only web service described in FIG. 8 is web service 762. As is very evident from FIG. 8, object 742 is only coupled to web service 762 through the public interface 746, and the billing adaptor 770. Further, as presented above, in conjunction with claim 1, the Applicants maintain that Stelting fails to teach any **web service interface** at all. The Examiner appears to have based his rejection on a coincidental occurrence of similarly named elements in Stelting. Nowhere does Stelting teach or suggest the functionality of the recited claim elements, neither does Stelting teach or suggest a similar cooperation between the disclosed elements. Therefore, the Applicants believe that Stelting suffers from various deficiencies. Neither Nguyen, nor Cameron correct such deficiencies.

Thus, Stelting, Nguyen, and Cameron, individually or taken together, do not disclose various limitations of claim 16. In light of the foregoing, the Applicants respectfully request that the rejection be withdrawn.

Claims 18, 19, and 20:

The Examiner has rejected claims 18, 19 and 20 over Stelting in view of Nguyen and in further view of Cameron. Claims 18, 19, and 20 include limitations similar to those recited in claim 16.

In particular, claims 18, 19, and 20 recite **“wherein the Web service interface is directly coupled to the billing engine”**. The arguments presented in conjunction with claim 16 hold true for claims 18, 19 and 20 as well. Therefore, Stelting, Nguyen, and Cameron, individually or taken together, do not teach the recited limitations of claims 18, 19 and 20. In light of the foregoing, the Applicants respectfully request that the rejections be withdrawn.

The references are not properly combined

Throughout the office action, the rationale provided for combining the references was that it would be obvious to try, per KSR (E). This rationale has been misapplied.

The “obvious to try” test can be grounds for finding an invention to be obvious, in that “[w]here there is a design need or market pressure to solve a problem and there are a finite number of identified, predictable solutions, a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense.”

Supreme Court’s instruction, that this rationale is only appropriate when there is a recognized problem or need in the art; there are a finite number of identified, predictable solutions to the recognized need or problem; and one of ordinary skill in the art could have pursued these known potential solutions with a reasonable expectation of success... Courts appear to be applying the KSR requirement for “a finite number of identified predictable solutions” in a manner that places particular emphasis on predictability and the reasonable expectations of those of ordinary skill in the art.

The first problem with the asserted rational is the statement of the “problem”. Before the rational can be applied, a problem has to be defined, where there is market pressure to solve this known problem. This stated problem has to have a set of finite solutions, which the Examiner enumerate. This enumeration has not been performed in the Action. If maintaining this rejection, please provide an enumerated listing of the finite number of solutions for the stated problem(s).

The problem stated in page 6 of the Action is:

“A problem or need to leverage professional expertise from outsourcing”

By definition, outsourcing refers to “Outsourcing often refers to the process of subcontracting to a third-party.” The following solutions, would apply to the “need to leverage professional expertise:

- 1) Hire an outside agency to perform billing
- 2) Hire contract employees (1099) to “outsource” this function
- 3) Train employees through an outsourced source to leverage professional expertise
- 4) Use COTS (developed by others – experts) software
- 5) Perform a joint project with another similarly minded company to share costs and resources
- 6) Trade services with another company ...

This list could go on and on. The APS referred to by Nygen are (para 0009) include:

Internet most often outsource Information Technology (IT) functions to ASPs, to save time and money. For example, some ASPs in the market today are PeopleSoft®, TIBCO™, VerticalNet™, ATG®, and Oracle. ISPs provide Internet access and services to business and residential subscribers. For example, some ISPs in the market today are America OnlineSM (AOLSM) AT&T Broadband InternetSM, Mind-spring™, and Earthlink™.

Having seen the above “problem” an almost infinite (and certainly not finite) set of solutions result. The Action’s statement that “outsourcing functions verses maintaining them in-house) being one of the finite set of solutions for the problem, is incorrect. If maintaining this rational,

please enumerate the “finite set of solutions that are involved with the problem. The finite set cannot be the set of:

- 1) Do the things the Applicants claims do
- 2) Do something else

Which is effectively the finite set of solutions listed. This is an improper use of KSR (E), and the rejections should be withdrawn on this basis.

NEXT ... even beginning with the stated solution of:

“outsourcing functions verses maintaining them in-house)

This can be performed “using conventional techniques for outsourcing functions. This can include a contractor using their software to perform the function. It can include using online software. There is no “motivation” or market pressure inherent in this statement to develop a new solution for the problem. The “old” solution satisfied the problem as stated, just fine.

Please provide proof that conventional solutions to outsourcing were lacking and that a “market pressure or need for the problem existed. Then provide proof that existing solutions did not satisfactory resolve this need.

Then we need to have evidence that someone elaborated on the possible solutions to outsourcing, which included Web services, among a small finite set of solutions.

In absence of providing a rational as to why the “obvious to try” rational is proper in the current case (in spite of the arguments provided above, which are believed to require substantial proof that heretofore has been absent and is believed to be non-existent), then the rejections to claims 1-20 should be withdrawn on this basis (failure to provide proper motivation under MPEP 2143), which action is respectfully requested.

CONCLUSION

Claims 1-16 and 18-20 are believed to be in an allowable state, which action is respectfully requested.

Please call the undersigned (305-791-5513) should the Examiner believe such a communication could further prosecution. Specifically, Applicants encourage the Examiner to call Applicants regarding any Examiner Amendments that the Examiner may notice, which could place the case in a condition for allowance.

Respectfully submitted,

Date: 01 December 2011

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